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EXAMINER
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UBER, NATHAN C

ART UNIT	PAPER NUMBER
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3622

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,770	<b>Applicant(s)</b> TANIMURA ET AL.	
	<b>Examiner</b> NATHAN C. UBER	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2009.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 31,32,34-40,53,54 and 56-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 31,32,34-40,53,54 and 56-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>29 January 2009</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### **Status of Claims**

1. This action is in reply to the amendment filed on 26 March 2009.
2. Claims 31, 53 and 63 have been amended.
3. Claims 1-30, 33, 41-52 and 55 have been canceled.
4. Claims 31, 32, 34-40, 53, 54 and 56-63 are currently pending and have been examined.

### **Continued Examination Under 37 CFR 1.114**

5. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 March 2009 has been entered.

### **Information Disclosure Statement**

6. The Information Disclosure Statement filed on 29 January 2009 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

### **Claim Objections**

7. Previous claim objections were corrected by Applicant's amendment, the objections are withdrawn.

### **Claim Rejections - 35 USC § 112**

8. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3622

9. Claim 31 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim element "retrieving means" is a means plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to disclose the corresponding structure, or material for the claimed function. For the purposes of this examination Examiner interprets "retrieving means" to be software functionality and not physical structure.

a. Applicant is required to: (a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or (b) Amend the written description of the specification such that it expressly recites what structure, material, or acts perform the claimed function without introducing any new matter (35 U.S.C. 132(a)).

b. If applicant is of the opinion that the written description of the specification already implicitly or inherently discloses the corresponding structure, material, or acts so that one of ordinary skill in the art would recognize what structure, material, or acts perform the claimed function, applicant is required to clarify the record by either: (a) Amending the written description of the specification such that it expressly recites the corresponding structure, material, or acts for performing the claimed function and clearly links or associates the structure, material, or acts to the claimed function, without introducing any new matter (35 U.S.C. 132(a)); or (b) Stating on the record what the corresponding structure, material, or acts, which are implicitly or inherently set forth in the written description of the specification, perform the claimed function. For more information, see 37 CFR 1.75(d) and MPEP 2181 and 608.01(0).

#### **Claim Rejections - 35 USC § 101**

10. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

11. Claim 31 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 31 is directed to an apparatus, but there are no structural features

Art Unit: 3622

disclosed in the body of the claim. The features disclosed include only databases, interfaces, tables, and other software functionalities. Therefore the “apparatus” of claim 31 is interpreted to be purely software. Software is not a statutory class of invention. Therefore claim 31 is *per se* not statutory because it is directed entirely to non-statutory subject matter. Examiner notes that the information in the preamble does not carry patentable weight.

12. Claims 53, 54 and 56-62 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Based on Supreme Court precedent, a method/process claim must (1) be tied to a particular machine or apparatus (see at least *Diamond v. Diehr*, 450 U.S. 175, 184 (1981); *Parker v. Flook*, 437 U.S. 584, 588 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972); *Cochrane v. Deener*, 94 U.S. 780, 787-88 (1876)) or (2) transform underlying subject matter (such as an article or materials) to a different state or thing (see at least *Gottschalk v. Benson*, 409 U.S. 63, 71 (1972)). A method/process claim that fails to meet one of the above requirements is not in compliance with the statutory requirements of 35 U.S.C. 101 for patent eligible subject matter. Here claims 53, 54 and 56-62 fail to meet the above requirements because they are not tied to a specific machine or apparatus and because they do not transform underlying subject matter.
13. Examiner notes the limitation *formulating messages by a salesperson side message interface by said administrator terminal device*. Examiner interprets this limitation to mean that a human operator, i.e. a salesperson, utilizes an *administrator device* to formulate a message. Since the limitation is directed to *formulating* here the human operator is actually completing this step not the specific machine or apparatus. Therefore this limitation does not demonstrate that the method is sufficiently tied to a specific machine or apparatus.
14. Regarding the *reading out* and *transmitting* limitations of claim 53 and the *displaying* limitation of claim 61, based on precedent from the *Diehr* (450 U.S. at 191-92) and *Flook* (437 U.S. at 590) Courts “...even if a claim recites a specific machine or a particular transformation of a specific article, the recited machine or transformation must not constitute mere insignificant postsolution activity.” *In re Bilski*, 545 F.3d 943, at 957. Further the *Bilski* decision notes that “postsolution

Art Unit: 3622

activity” is not narrowly interpreted to mean only a step occurring at the end of a process. Rather, based on precedent from *In re Schrader* (22 F.3d 290) and *In re Grams* (888 F.2d 835), insignificant extra-solution activity is applicable to insignificant steps whether occurring pre-solution, post-solution, or in the middle of the process. *Id.* Specific examples of insignificant activity include data recordation or data gathering steps. *Id.* Such steps are incapable of imparting patent-eligibility under § 101. *Id.* Examiner determined that the *reading out* and *transmitting* of claim 53 and the *displaying* of claim 61 constitute insignificant extra-solution activity because the steps constitute mere data transmission or recordation.

15. Examiner further notes that the material in the preamble of claim 53 does not carry patentable weight in the claim.
16. Accordingly, claims 53, 54 and 56-62 are unpatentable under 35 U.S.C. 101 because the insignificant extra-solution steps are the only steps that include a specific machine or particular transformation and because the insignificant extra-solution steps are incapable of imparting patent-eligibility under § 101. (For further guidance see also the USPTO Memorandum “Guidance for examining Process Claims in view of *In re Bilski*” dated 7 January 2009).

#### Claim Rejections - 35 USC § 102

17. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

18. **Examiner’s Note:** The Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific

Art Unit: 3622

limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

19. Claims 53, 54, 56-59 and 61-63 are rejected under 35 U.S.C. 102(e) as being anticipated by Suzuki et al. (U.S. 2003/0078833 A1).

**Claims 53 and 63:**

Suzuki, as show, discloses the following limitations:

- *reading out a message by a customer side message interface, the message regarding a specified company in a company database and formulating using said administrator terminal device, but not including a company database of a service provider, and transmitting the message over the network to customer tables correlated with a salesperson table of the service provider or to customer terminal devices of customer tables extracted according to preset retrieving conditions (see at least Figure 6),*
- *generating a selection registration table by a selection registration section, the selection registration table correlating the salesperson table of a company manager of a specified company with a customer who is a source of an approval signal from each of the customer terminal devices, when a salesperson side message interface receives the approval signal (see at least ¶0061, the selective registration unit accepts MRIDs from user terminals of clients/customers and associated the selected MR with the user and generates a registration table to record the association),*
- *formulating messages by a salesperson side message interface by said administrator terminal device to customers of the customer tables extracted under the preset retrieving conditions, from the customer tables correlated with the salesperson tables of company managers, and allowing the*

- messages formulated to be stored in a message database (see at least ¶0062, the MR-side message interface, prepare delete and store messages),*
- *transmitting from a customer side message interface the messages formulated to the customer terminal devices, over the network, in the name of the company managers or in the name of salespersons of the salesperson tables which are different from tables belonging to the company managers and which are correlated with the customer tables (see at least Figure 9),*
  - *transmitting messages formulated from the salesperson side message interface to salesperson terminal devices which are different from the tables belonging to the company managers and which are correlated with the customer tables (see at least Figure 14, item 112),*
  - *wherein the salesperson side message interface formats the display so that the messages transmitted/received by the salespersons, directly in charge of the customers, of the salesperson tables different than those belonging to the company managers, can be distinguished from the messages transmitted/received by the company managers (see at least Figure 16, see also at least ¶0073, various messages are sent by various users and each message indicates the identification of the sender including those messages in which the "sender's user ID is a manager ID, see also at least ¶¶0115-0116 and at least Figure 17, Item 186, the communication history for a client can be displayed to the MR so that the MR can visually see all of the messages received/transmitted by/to the client).*

With regard to the various terminals devices of this claim, Suzuki specifically notes "that a plurality of user terminals and a plurality of MR terminals exist" (see at least ¶0054) as well as a support server (which is equivalent to the company terminal) (see at least ¶0050 and ¶0055), further Suzuki notes that a supervisor operates an MR terminal to



supervise MRs, so the MR terminal of the Suzuki reference is the same as the administrator terminal of Applicant's claims (see at least ¶0119).

**Claim 32 and 54:**

Suzuki, as shown, discloses the following limitation:

- *the message transmitted to said customer in the name of the company manager or in the names of salespersons of said salesperson tables which are different than those belonging to said company managers includes a return message to the message from said customer (see at least Figure 8, Item 62).*

**Claims 34 and 56:**

Suzuki, as shown, discloses the following limitation:

- *said salesperson side message interface allows the salesperson terminal device belonging to said company manager of each company to browse the transmission/receipt hysteresis (list) of messages with said customers of the totality of salespersons of the company databases excepting said company database of said system provider (see at least Figure 17, Item 17).*

**Claims 35 and 57:**

Suzuki, as shown, discloses the following limitation:

- *said salesperson side message interface provides the salesperson terminal devices with customer-based use data over the network (see at least ¶0115).*

**Claims 36 and 58:**

Suzuki, as shown, discloses the following limitation:

- *said company databases excepting said company database of said system provider group together a plurality of customer tables out of the totality of customer tables correlated with the salesperson tables of the company managers (see at least ¶Figures 17 and 18).*

**Claims 37 and 59:**

Art Unit: 3622

Suzuki, as shown, discloses the following limitation:

- *having unread message extracting means for extracting unread messages in the name of each company manager or in the name of the salespersons of said salesperson tables which are different than those belonging to said company managers (see at least Figure 17, Item 184),*
- *responding customer extracting means of extracting the customers whose messages to the company managers or to salespersons of the salesperson tables different than those belonging to said company managers have been received within a present time (see at least Figure 16),*
- *customer name extracting means for extracting customers of interest based on all or part of customer names entered as the retrieving conditions (see at least Figure 12),*
- *said retrieving means extracting preset customers by said narrowing-down means and/or said customer name extracting means (see at least Figure 19).*

**Claims 39 and 61:**

Suzuki, as shown, discloses the following limitation:

- *said customer side message interface displays on said customer terminal device the salespersons of the salesperson tables correlated with the totality of customer tables of the company databases other than the database of said service provider, provided that the salespersons displayed are not approved by said customer (see at least Figure 10).*

**Claim 40 and 62:**

Suzuki, as shown, discloses the following limitation:

- *each time a new customer table is added to said salesperson tables different than those belonging to said company managers, said new customer table is added to said totality of customer tables correlated with the salesperson*

*tables of said company managers* (see at least Figure 3, Item 318 is the customer table).

### Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

22. Claims 31, 32 and 34-37, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 2003/0078833 A1) alone. Examiner notes that the rejections for claims 32-37, 39 and 40 are listed above because the claims are substantially the same as the claims 54-59, 61 and 62.

#### Claims 31:

Suzuki, as show, discloses the following limitations:

- *a plurality of customer databases each adapted for storage therein of a customer table to which private data of a customer has been entered* (see at least ¶0061, client database and ¶0083, "...storing them in the client table of the client database..."),

- *a selection registration section for accepting registration from said customer terminal device of identification data of the salesperson approved by said customer and for generating/holding the selection registration table correlating the salesperson table of the salesperson identified by said identification data with said customer table (see at least ¶0061, the selective registration unit accepts MRIDs from user terminals of clients/customers and associated the selected MR with the user and generates a registration table to record the association),*
- *a message database for holding a message sent from said salesperson to said customer and a message sent from said customer to said salesperson (see at least ¶0065, message database, accessible by both the sales person and the client),*
- *retrieving means for retrieving the customer table correlated with said salesperson table by said selection registration table (see at least ¶0062, the MR-side message interface, see also at least Figures 12-19, item 115, client list, ¶0061, selection registration table, see also at least ¶0060, MR support server),*
- *a salesperson side message interface for assisting in formulation of a message to said customer by said salesperson terminal device, said company terminal device and said administrator terminal device with generation of said selection registration table as an incentive; said salesperson side message interface also reading out the message formulated by said customer from said message database and sending the message thus read out to said salesperson terminal device and said company terminal device (see at least ¶0062, the MR-side message interface),*

- *a customer side message interface for reading out the message prepared by said salesperson from said message database to send the message thus read out to said customer terminal device, and for assisting in formulation of the message by said customer terminal device (see at least ¶0063, client-side message interface),*
- *at least one of the salesperson tables of the company database of said service provider is correlated with the totality of customer tables correlated with the salesperson tables of the totality of said company databases, inclusive of said company database of said system provider, by said selection registration table (see at least Figure 3),*
- *at least one of the salesperson tables of each of the company databases excepting said company database of said service provider is a salesperson table belonging to a manager of each company; the salesperson table of said company manager is correlated with the totality of the customer tables correlated by said selection registration table (see at least ¶0121, a manager managing a plurality of MRs),*
- *said customer side message interface reading out a message concerning a specified one of the companies of said company databases excepting said company database of said system provider and formulating using said administrator terminal device from said message database and transmitting the message read out over said network to the totality of customer tables correlated with said salesperson table of said service provider or to customer terminal devices of customer tables extracted by said retrieving means subject to preset retrieving conditions (see at least Figure 16,),*
- *said customer side message interface on receipt of an approval signal from each of said customer terminal devices allowing said selection registration section to generate the selection registration table correlating the*

*salesperson table of said company manager of said specified company with the customers of the sources of transmission of said approval signals (see at least Figure 6, Item 33 “management,” see also at least ¶0058, customer approves of an MR by registering a code, ¶0061 selective registration table relies uses approval/registration information to associate MRs with customers, ¶0063 MRs contact customers after the customer approves them, see also at least ¶0120, when an MR is approved the MR’s company is also approved and company information may be forwarded to the customer and prioritized over non-approved companies),*

- *said salesperson side message interface assisting in formulating messages by said administrator device to customers of said customer tables extracted under said preset retrieving conditions by said retrieving means from the totality of customer tables correlated with the salesperson tables of the company managers of said companies, and allowing the messages formulated to be stored in said message database (see at least Figure 14),*
- *said customer side message interface transmitting the messages formulated to said customer terminal devices, over said network, in the name of said company managers or in the name of salespersons of said salesperson tables which are different than those belonging to said company managers and which are correlated with said customer tables (see at least Figure 9),*
- *said salesperson side message interface transmitting the messages formulated to salesperson terminal devices which are different than those belonging to said company managers and which are correlated with said customer tables (see at least Figure 14),*
- *wherein the salesperson side message interface formats the display so that the messages transmitted/received by the salespersons, directly in charge of the customers, of the salesperson tables different than those belonging to the*

*company managers, may be distinguished by said salesperson terminal devices from the messages transmitted/received by the company managers (see at least Figure 16, see also at least ¶0073, various messages are sent by various users and each message indicates the identification of the sender including those messages in which the "sender's user ID is a manager ID, see also at least ¶¶0115-0116 and at least Figure 17, Item 186, the communication history for a client can be displayed to the MR so that the MR can visually see all of the messages received/transmitted by/to the client),*

With regard to the various terminals devices of this claim, Suzuki specifically notes "that a plurality of user terminals and a plurality of MR terminals exist" (see at least ¶0054) as well as a support server (which is equivalent to the company terminal) (see at least ¶0050 and ¶0055), further Suzuki notes that a supervisor operates an MR terminal to supervise MRs, so the MR terminal of the Suzuki reference is the same as the administrator terminal of Applicant's claims (see at least ¶0119).

With respect to the following limitation, Suzuki, as shown, discloses the following limitations except Suzuki does not specifically disclose a company table. However, Suzuki does disclose identifying the company to which and MR belongs and sorting data by company, see at least ¶0056 and Figure 3.

- *a plurality of company databases each adapted for storage therein of a company table of a company, supervising a plurality of salespersons belonging to said company, a plurality of salesperson tables, each provided for each salesperson belonging to said company, and a selection registration table for correlating said customer tables and the salesperson tables to each other (see at least ¶0061, "MR database contains an MR table and a selective registration table"),*

Suzuki does not specifically disclose the following limitation; however the proprietorship of a given database does not affect the scope of the invention.

- *at least one of said company databases is owned by a service provider*

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to alter the invention of Suzuki to add tables to track companies since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.

23. Claims 38 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki et al. (US 2003/0078833 A1) in view of **Official Notice**.

**Claims 38 and 60:**

Suzuki does not specifically disclose the following limitation:

- *said salesperson side message interface performs the processing of refraining from transmitting all messages in case it is unable to transmit the messages to all of said customers simultaneously*

However, Examiner takes **Official Notice** that it is old and well known in the art for a messaging system not to send messages that have transmission errors and to report to the sender which messages had transmission errors and were not sent. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the old and well known message transmission feature of detecting and recording transmission errors with invention of Suzuki since the claimed invention is merely a combination of old elements, and in the combination each element merely would have performed the same function as it did separately, and one of ordinary skill in the art would have recognized that the results of the combination were predictable.



**Response to Arguments**

24. Applicant's arguments filed 26 March 2009 have been fully considered but they are not persuasive. The rejections above have been updated to reflect Applicant's amendments, however the previous rejections are maintained.
25. Regarding claim 31, Applicant argues that Suzuki fails to disclose that (1) one of the company databases is assigned to (owned by) a service provider, and that (2) a company database is assigned to a customer of the service provider (i.e. a pharmaceutical manufacturing company)... [and] that (3) a sales person table of the company database is correlated with a totality of the customer tables" (see page 10-11 of Applicant's response). Further Applicant argues (4) "Suzuki fails to disclose an 'approval signal'... and "after receiving acknowledge signal, transmitting the messages" (see page 10-11 of Applicant's response).
26. Regarding Applicant's arguments (1) and (2), as stated in the previous office action, the proprietorship of a database is not a functional limitation that patentably affects the scope of the claim. The limitation 'a database is owned by a service provider' is non-functional descriptive material. For these reasons Examiner has not given the limitation patentable weight. As shown in the rejections above, the Suzuki reference meets all of the functional and structural limitations of the claims. See MPEP 2106 for further guidance on non-functional and functional descriptive material.
27. Regarding Applicant's argument (3), as stated in the rejection above, Suzuki does disclose sales person tables being correlated with customer tables. Suzuki specifically discloses that generating the selective registration table requires "associating the client table with the MR table" (see ¶0061). Examiner interprets the words "associating" and "correlating" to mean the same thing, especially in light of the specification which does not disclose a different definition or explanation of this limitation. Applicant was concerned that Examiner relied on ¶0121 to teach the limitation in question. However, Examiner cited ¶0061 to teach the limitation in an earlier-appearing limitation where the *correlating* limitation first appeared. ¶0121 was relied on to teach limitations regarding management tables. Examiner notes that Examiner points out particular references contained in

Art Unit: 3622

the prior art of record within the body/context of the claims for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner. Often, when individual limitations are complex and multifaceted as above, Examiner will not provide repeated citations for limitations that reappear throughout the claims. This is intended to aid Applicant in understanding Examiner's interpretation of unique limitations and of the prior art.

28. Regarding Applicant's argument (4), as shown in the rejections above, Suzuki discloses an invention with the capability of sending/*transmitting* messages. Further Suzuki discloses an approval signal; see at least ¶0058, a potential client, "the person engaged in medical services," approves of an MR by registering the MRID code. The code registration serves as the approval signal for the database that allows the database to associate the client with the MR (see also ¶0061, the selective registration table, and ¶0063, MR contacts only customers that have approved of the MR). Further in ¶0061, Suzuki emphasizes that transmissions to the potential customers occurs after the MR is approved by the potential customer. At ¶0120, Suzuki discloses that after an MR is approved the MR's company is also approved and company information may be forwarded to the customer and prioritized over non-approved companies. This information is sent by the company and not necessarily the MR. As shown in the rejections above, the Suzuki reference meets all of the functional and structural limitations of the claims.
29. With respect to claims 31, 53 and 63, Applicant argues (5) that Suzuki fails to teach a claimed display format of an interface that is capable of indicating the senders and recipients of messages (see pages 12-13 of Applicant's remarks). Applicant is relying on Figure 16 of Suzuki which provides an example of a screen display of messages transmitted by a salesperson. As noted in the rejection above, ¶0073 specifically indicates that various messages are sent by various users and each message indicates the identification of the sender including those messages in which

Art Unit: 3622

the "sender's user ID is a manager ID." Suzuki also discloses (see at least ¶¶0115-0116) and illustrates (see at least Figure 17, Item 186) that the communication history for a client can be displayed to the MR so that the MR can visually see all of the messages received/transmitted by/to the client.

30. Applicant then argues that (6) Suzuki does not teach or suggest an administrator terminal device or a company terminal device (see page 13 of Applicant's response). However, Suzuki in fact specifically notes "that a plurality of user terminals and a plurality of MR terminals exist" (see at least ¶0054) as well as a support server (which is equivalent to the company terminal) (see at least ¶0050 and ¶0055), further Suzuki notes that a supervisor operates an MR terminal to supervise MRs, so the MR terminal of the Suzuki reference is equivalent to the administrator terminal of Applicant's claims (see at least ¶0119).
31. Next Applicant argues that (7) Suzuki does not teach or suggest a system with "a retrieving means for retrieving the customer table correlated with said salesperson table by said selection registration table" (see page 13 of Applicant's response). In fact this statement is false. Examiner noted in the rejection above that Suzuki discloses structural as well as functional non-structural features that are equivalent to the claimed *retrieving means* (see at least ¶0062, the MR-side message interface, see also at least Figures 12-19, item 115, client list, ¶0061, selection registration table, see also at least ¶0060, MR support server). Examiner notes that the *retrieving means* of this claim is missing from the specification as noted above in the § 112 rejection. Examiner therefore broadly construed this claim to mean any software function capable of retrieving the specified data as noted in the rejection.
32. In Applicant's final argument (8) Applicant claims that "messages are transmitted to the customers by the company manager, instead of from the salespersons directly in charge of the customers" (see pages 13 and 14 of Applicant's response). However, Applicant directs examiner to supporting language in the specification rather than the claims. It is noted that conversely claims 31, 53 and 63 disclose "transmitting the messages formulated to said customer terminal devises, over said network, in the name of said company managers OR in the name of said sales

Art Unit: 3622

persons" (emphasis added), and "messages transmitted/received by said salespersons." Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims do not indicate that messages are transmitted by the managers only, further the claims seem to disclose that contrarily salespersons transmit messages and most significantly that salespersons are able to transmit messages to customers. Further for the purposes of patentability, Applicant suggests that labeling the user that sends a message as a manager is a significant and patentable distinction of Applicant's invention over the cited art. Examiner however disagrees. Even if the distinction is there, and, as indicated above, Examiner notes that it is not present in the claims, the alleged distinction is merely non-functional descriptive material (i.e. the label applied to a user) Such a distinction, if it is later incorporated into the claims, will not overcome the art. As Suzuki states in ¶0119 a supervisor can operate an MR terminal which essentially converts an MR terminal to a manager terminal, and allows a supervisor to perform all the MR functions.

33. Examiner notes that arguments 1-3 were previously presented and Examiner responded to those arguments in the final office action. Examiner's previous responses with respect to arguments 1-3 are repeated above as Applicant failed to provide further arguments or to explain how the amendments overcome the prior rejection.
34. Examiner further notes that many of Applicants arguments 4-7 were directed only to the citations used in the rejection above, and that Applicant's amendments did not appear to account for other sections of the prior art of record that were not directly cited by Examiner. Applicant is reminded that the Examiner has pointed out particular references contained in the prior art of record within the body of this action for the convenience of the Applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply. Applicant, in preparing the response, should consider fully the entire reference as potentially teaching all or part of the claimed

Art Unit: 3622

invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

35. Regarding Examiners official notice taken to teach claims 38 and 60. The common knowledge or well-known in the art statement is taken to be admitted prior art because applicant did not traverse the examiner's assertion of official notice. MPEP 2144.03(C).

Art Unit: 3622

### **Conclusion**

- 36.** Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **Nathan C Uber** whose telephone number is **571.270.3923**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm. If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **Eric Stamber** can be reached at **571.272.6724**.
- 37.** Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> <<http://pair-direct.uspto.gov>>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).
- 38.** Any response to this action should be mailed to:

**Commissioner of Patents and Trademarks**

**P.O. Box 1450, Alexandria, VA 22313-1450**

or faxed to **571-273-8300**.

- 39.** Hand delivered responses should be brought to the **United States Patent and Trademark Office Customer Service Window**:

Randolph Building

401 Dulany Street

Alexandria, VA 22314.

/Nathan C Uber/ Examiner, Art Unit 3622  
21 April 2009

/Arthur Duran/  
Primary Examiner, Art Unit 3622